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'Huge' Victory: New York Supreme Court Reinstates 10 Teachers Fired for Refusing COVID Vaccine

Ten New York City school teachers fired for refusing the COVID-19 vaccine on religious grounds must be reinstated with back pay, benefits, seniority and attorney fees effective immediately, a New York State Supreme Court judge ruled Wednesday afternoon, in what the plaintiffs' attorney called a "precedent-setting" victory.

By Brenda Baletti, Ph.D.

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Ten New York City school teachers who were fired for refusing the COVID-19 vaccine on religious grounds must be reinstated with back pay, benefits, seniority and attorney fees effective immediately, a New York State Supreme Court judge ruled Wednesday afternoon.

Nearly 7,000 New York City Department of Education (DOE) workers who sought religious accommodation from the COVID-19 vaccine mandate were denied based on standards that a federal court later ruled unconstitutional.

Some of the workers, along with Teachers for Choice, sued the city in February, in a lawsuit sponsored in part by Children's Health Defense (CHD) and CHD New York.

The suit sought relief for 16 plaintiffs. It also sought class-action certification for all DOE workers who were denied religious exemptions.

Judge Ralph Porzio denied the plaintiffs' motion to grant class status, ruling the parameters the plaintiffs submitted for defining the class were overly broad.

However, in his 22-page ruling, Judge Porzio said there was "no rational basis for the seemingly blanket denial of any religious exemption to all classroom teachers" provided by the respondents.

He found the lack of timely explanation provided to each teacher made the denials "arbitrary and capricious," and the city's claim that accommodating classroom teachers' exemption requests would place undue hardship on the city was also "arbitrary, capricious, and unreasonable."

"This court sees no rational basis for not allowing unvaccinated classroom teachers in amongst an admitted population of primarily unvaccinated students," he wrote.

On those bases, he granted relief to the 10 unvaccinated plaintiffs who completed all the steps in the administrative process for requesting exemption and appealed the city and DOE's decision.

The court denied relief to six plaintiffs who did not complete the administrative process or whose exemptions were approved.

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'Watershed moment in the teachers' fight'

Commenting on the judge's decision, Sujata Gibson, attorney for the plaintiffs, told The Defender:

> "We've been fighting for this since August of 2021 for these 10 people specifically. And we won and we won big for them. They were reinstated with back pay, with no break in service, and attorneys' fees. That's huge."
>
> "The judge's ruling yesterday, while not everything we wanted, is a precedent-setting victory, and a watershed moment in the teachers' fight."

Thousands of workers were subjected to the very same processes the judge ruled were "arbitrary and capricious," and they could sue individually based on that precedent.

Gibson also said Wednesday's ruling did not close the door on a possible class action:

> "The court's ruling on class certification still leaves the door open to future relief for thousands of teachers negatively affected by the vaccine requirement. We intend to file a motion of reconsideration on a narrower basis."
>
> "Rather than waste public resources clogging the courts with so many individual lawsuits, legal action that will remedy these discriminatory policies for all impacted workers only makes sense."

Michael Kane, one of the teachers whom the court ordered reinstated in his job said this was a big win for the plaintiffs and for CHD, but that he was disappointed they weren't certified as a class.

Kane told The Defender:

> "I am happy for the 10 of us that were reinstated, but deeply saddened that this verdict does not have an impact on the thousands who were discriminated against and treated as heretics. So it's definitely a mixed blessing and mixed emotions right now for me."

CHD President Mary Holland told The Defender she was "thrilled the 10 teachers were reinstated with back pay," but:

> "I am disappointed by Judge Porzio's decision not to certify the 7,000 New York City teachers as a class. All of these teachers were made to participate in a patently bogus religious exemption process."
>
> "The 2nd U.S. Circuit Court of Appeals has already opined that the process was unconstitutional. The reasons for a class — numerosity, commonality, typicality and adequacy — were present here. This is not the end of the story."

Judge Porzio delivered his ruling on the afternoon before the first day of the 2024 school year for New York City public school students. That should mean that today the 10 teachers can return to their classrooms for the first time since October 2021, when they were initially placed on leave without pay.

But when Gibson contacted the school district to ask where the teachers should report for work, the district told her that none of the teachers should come to work.

That could signal that the city and DOE are planning an appeal, she said.

Order Now 'The Wuhan Cover-up' by RFK Jr.!

The 'arbitrary and capricious' denials

More than 100 spectators who were members of the potential class attended the Wednesday hearing. Unlike previous hearings for this case, when Judge Porzio had allowed the plaintiffs' supporters into the courtroom, yesterday he sent them to a separate room to watch the proceedings on closed circuit television, Kane told The Defender.

Only the named plaintiffs and the attorneys were allowed into the courtroom.

Those educators had been grappling with the consequences of the mandate since August 2021, when New York City Mayor Bill De Blasio announced a COVID-19 vaccine mandate for DOE employees for the upcoming school year.

The city initially indicated it would not consider religious exemptions, despite its legal obligation to do so. After a local court issued a temporary restraining order against the mandate, the city agreed to adopt an accommodation policy.

The accommodation policy, however, discriminated against people based on their religious beliefs, according to Gibson, because it was explicit that religious accommodation requests must be denied to anyone who is not a member of a "recognized" and "established" religious organization whose leader is against vaccination, such as Christian Scientists.

DOE employees were required to submit requests for reasonable accommodations through an online portal by Sept. 20, 2021, and they were offered one day to appeal denied requests. Those who failed to request accommodation, or who were denied it, were placed on Leave Without Pay on Sept. 28, 2021.

DOE then used that policy as a basis to deny religious exemptions to Christians, Buddhists, Jews and others, saying that although it believed their religious objections were sincere, the beliefs did not meet the criteria for exemption.

The DOE denied exemptions to all but 162 of 7,000 petitioners, notifying them of their denial with the same auto-generated email.

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By December 2021, the 2nd Circuit had already found — in a separate federal case on the matter, Kane v. de Blasio, filed by many of the same petitioners in federal court on Sept. 21, 2021 — that the religious accommodation as written was "blatantly unconstitutional."

Instead of amending the policy, the city convened a "citywide panel" consisting of three members of the city's law department, the Department of Citywide Administrative Services, and the Commission on Human Rights, respectively. It promised the panel would provide a "fresh consideration" of the exemption requests and to reinstate wrongfully terminated employees with back pay.

But that panel refused to even review over 6,000 of the petitions, and of the 600 it did review, it almost universally upheld the original decision and informed the workers their petitions were denied with the same auto-generated email informing them their petition "does not meet criteria" for accommodation.

The 10 petitioners granted relief Wednesday were eventually provided some reasoning behind the panel's decision. Although the cases were meant to be considered individually, the reasoning for the denials, as summarized by Judge Porzio in the ruling, was remarkably consistent.

In some cases, the panel found that although their religious beliefs were sincere, they were not sufficient basis for exemption. In other cases, they found that religious beliefs were a sufficient basis for accommodation, but accommodating the teachers would place an "undue burden" on the city.

While the Kane v. de Blasio lawsuit, filed by unvaccinated New York City teachers challenging their firing on constitutional grounds, remained pending before the 2nd Circuit, plaintiffs were authorized to bring their statutory claims and seek certification as a class in New York State court after the district court declined to exercise jurisdiction over their state claims.

So some of those same teachers in February filed this lawsuit, DiCapua v. City of New York, against the city — this time alleging the defendants engaged in a continuing pattern of discriminatory conduct against the DOE workers in violation of the New York State Constitution, the New York State Human Rights Law, the New York City Human Rights Law and Article 78 of the New York Civil Practice Law and Rules.

In April, the plaintiffs filed a motion for class certification, citing that all members of the class were affected by the same errors of law and that "the autogenerated, vague, and conclusory denials" of religious exemptions were all "arbitrary and capricious."

In July, Judge Porzio ruled against the city's motion to dismiss in a hearing attended by more than 150 people supporting the plaintiffs.

On Aug. 14, he heard arguments from both sides, in a hearing attended by well over 300 people. He announced that he would render his decision on Sept. 6 regarding the class action certification and the Article 78 question.

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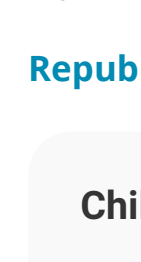

Brenda Baletti, Ph.D.

Brenda Baletti Ph.D. is a reporter for The Defender. She wrote and taught about capitalism and politics for 10 years in the writing program at Duke University. She holds a Ph.D. in human geography from the University of North Carolina at Chapel Hill and a master's from the University of Texas at Austin.

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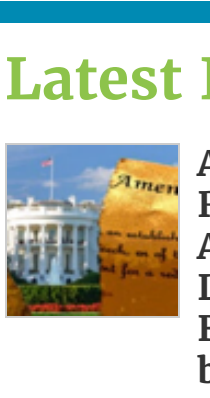
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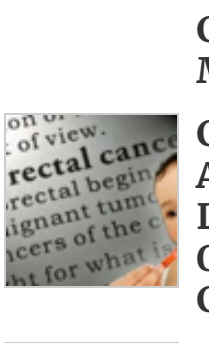
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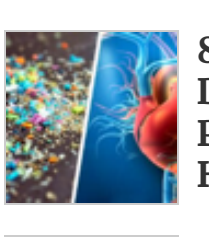
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Best Newest Oldest

Stephen Thomson
4 days ago
New York disgusts me. I have zero tolerance for how they handled COVID, lock downs, entry to restaurants, vilifying those that had been COVID recovered, vaccine mandates and firing hard working Americans because they chose not to take the unproven and now known ineffective and harmful, vaccine. Shame on those that made these regressive decisions.
23 0 Reply • Share ›

Kim from Brooklyn → Stephen Thomson
4 days ago
Disgusted is an understatement.
3 0 Reply • Share ›

Will of O-Neh-Da Vineyard
4 days ago
If it were not for attorney Sujata Gibson and Childrens' Health Defense, these injustices would be repeated again as the Nation prepares for more lock downs, masking and tyrannical mandates. EVERYONE must withdraw their consent and do not comply with upcoming mandates and restrictions!
18 0 Reply • Share ›

Kim from Brooklyn → Will of O-Neh-Da Vineyard
4 days ago
Amen to that!!! CHD was the place I went to during this whole plandemic. CHD was the place I came to for information and support. It was the ONLY place and it very well may have saved me from going completely bonkers.
5 0 Reply • Share ›

Susanne B
4 days ago
Thank you CHD! So seldom have I seen justice, per our Constitution, prevail in recent times. I know your persistence and acumen is responsible for this justice.
10 0 Reply • Share ›

BraveNewWhirled
4 days ago
We don't need a "religious exemption" in order to refuse something into your body you don't want. They've made it a function of government to decide what goes into your body, and that's the idea behind "religious exemptions": They must be granted by The Higher Power or we shall suffer starvation and homelessness.

The Establishment has normalized their invasion of your body, even though this seems like a win. The case only confirms their right to power over your person through these "exemptions". Our 4th Amendment confirms you shall be secure in your person, houses, papers and effects. Informed consent is not offered (nor tolerated, apparently), so another right they stepped on because we let them make these "exemptions" all those years ago.
8 0 Reply • Share ›

Deanna → BraveNewWhirled
3 days ago
AMEN!!!! I NEVER agreed with asking them "permission" to be me waived from something that you have a right to say "yes" or "no" with reference to any experimental invasive protocols to so called prevent an acute or chronic illness!
4 0 Reply • Share ›

MultiChubby1 → BraveNewWhirled
2 days ago
Best comment of the day. Like " Do you want cheese on that burger?" Uh, No. "Could you please scan your exemption code"
0 0 Reply • Share ›

jann
4 days ago edited
I'm beyond thrilled for the teachers rehired with back pay and seniority. After 30 years working for this sham of a system, I know the DOE will not make their lives easy but who cares. If they've survived these two years of unpaid harassment, they can handle anything. NYC deserves to have the book thrown at them. Great job CHD and Sujata Gibson! Much gratitude to Judge Porzio for restoring some reasonableness to the law. You have all restored my faith.
8 0 Reply • Share ›

MultiChubby1 → jann
2 days ago
Pretty shaky ground to place your faith in.
0 0 Reply • Share ›

Cynthia Vana
4 days ago
Congratulations! ♡
8 0 Reply • Share ›

mcwinaz
4 days ago
"But when Gibson contacted the school district to ask where the teachers should report for work, the district told her that none of the teachers should come to work."

That could signal that the city and DOE are planning an appeal, she said."

And the madness continues... If I were these teachers, I would take the backpay and spit in the district's face. Do you really want to work for these tyrants again? Count me out..
7 0 Reply • Share ›

Bill H RRT
3 days ago
I was once a registered respiratory therapist. This ruling comes way too late for health professionals. As policy, it will always be mandatory to take vaccines. I don't want any part of that. I don't even care how that is perceived, either. Call me "anti-vax". History is now on my side. There are certainly enough awareness to what is happening, and why. That doesn't have to be discussed anymore. Now, we act on the agenda.

D.O.N.T. C.O.M.P.L.Y
5 0 Reply • Share ›

Matt Charles
4 days ago
Good news. But also this is like a thief returning your kettle after stealing everything else in your home.
4 0 Reply • Share ›

Kim from Brooklyn → Matt Charles
4 days ago
True. But it is a start in the right direction.

The difference between stealing and robbing is stealing is when you don't see them doing it; robbing is when they hold a gun to your head while they are doing it.

Neither is acceptable but one is over the other is "preferable".
1 1 Reply • Share ›

Stuff Happens
4 days ago
NY BOE will keep appealing b/c they fear the floodgates will open and they'll be buried in lawsuits. This won a significant battle but the war isn't won yet.
4 0 Reply • Share ›

Ricky Ricardo
4 days ago
The ones responsible for their dismissal need to be INCARCERATED - for the rest of their evil, pathetic lives! These are *still* **CRIMES AGAINST HUMANITY**!
4 0 Reply • Share ›

Kim from Brooklyn
4 days ago
Congratulations!!!!!!!

Now we have another twist in the road. Get the rest of the teachers back. Help the medical profession do what they do best, treat people without pressure from government and media. Medical professionals need to ban together in order to treat and heal us the way God intended, naturally and intellectually. Not threatened to push drugs and vaccines, lean into natural remedies and close all fast food chains. These are the cause of obesity and ill health.

And, and this is a big one .

The thousands of illegals taking the seats in schools where our children should be; putting our tax dollars to help this country. Lord knows we have enough homeless and vets living on the streets. Send these poor young children that have been smuggled over the border to a place where they can try to prosper and have a chance at life but not take it away from ours.

Children, elderly and animals are always the victims.
3 0 Reply • Share ›

MultiChubby1 → Kim from Brooklyn
2 days ago
A society is measured by how it treats its most vulnerable members. And by children, I am hoping you mean from conception.
1 0 Reply • Share ›

Ron Hollis
4 days ago
Where are all the names of all those involved in creating this Department of Education vaccine policy of arbitrary discrimination. It was contrived by many of authority and rank besides Mayor deBlasio. There needs to be personal monetary punishment for all involved, fines, pay cuts and pension cuts. As is, it will be covered by D.O.E. Insurance which is paid for by city and state taxes and indirectly by federal taxpayers also.
3 0 Reply • Share ›

marx_and_hitler_were_losers
4 days ago
The question is will the city relent and stop the legal water torture of appeals and hire EVERYONE back.
They are experts at sandbagging.
3 0 Reply • Share ›

Rondank
4 days ago
Communism takes a 4X4 to the face.
3 0 Reply • Share ›

Jon Ferrari
4 days ago
Congrats Everyone! Every win is a big one, especially as we get closer to Election day.
3 0 Reply • Share ›

Crazy 4 Color
4 days ago
celebrating
2 0 Reply • Share ›

Deathun Cents
3 days ago edited
Anyone who mandates any type of medical procedure needs to be executed by capital punishment.
1 0 Reply • Share ›

kaoshispano
4 days ago
THIS TIRANNY must be showed clear for never again... but they reached millions and millions of innocents and destroy the life of them a big part... the NWO made what he planned for killing people. And the guilties? Trump has responsability in big way.
2 3 Reply • Share ›

Matt
4 days ago
What Michael Kane revealed is very disappointing. Like him I'm glad for the 10 teachers, but this ruling should have extended to anyone and everyone in New York who was mandated by anyone to take the jab to save their jobs. A huge, nonsensical short sided judgement.
1 1 Reply • Share ›

Ricky Ricardo
20 hours ago
Everyone Everywhere who lost their employment because of the covid **FRAUD**, should be reinstated - with back pay and compensation for pain and suffering - at the very least!!! Will they do it again this fall?
0 0 Reply • Share ›

Miles
2 days ago
when you understand that the US Department of Defence (DoD) is the government agency that controlled the production, supply, distribution, and injection of every mRNA so called vaccine which according to them is not a vaccine but a "countermeasure".
DoD countermeasures are best described as weapons, in this case bioweapons.
US legislation has allowed the DoD to undertake a bioweapons test using the people of the world as their test subjects.
They do so with absolute immunity to prosecution for themselves and everyone else involved in the testing program by means of three pieces of US legislation and their contracts for supply to other nations around the world.
Watch the linked video for a full explanation of how they have accomplished this genocide legally but not lawfully.

https://www.bitchute.com/vi...
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